Document:-

A/CN.4/SR.1005

Summary record of the 1005th meeting

Topic:

Succession of States in respect of matters other than treaties

Extract from the Yearbook of the International Law Commission:-

1969, **vol. I**

International Court and to tell them how much the Commission appreciated the work they were doing, which was of such importance for international law.

The meeting rose at 1.5 p.m.

1005th MEETING

Friday, 20 June 1969, at 10.15 a.m.

Chairman: Mr. Nikolai USHAKOV

Present: Mr. Bartoš, Mr. Bedjaoui, Mr. Castrén, Mr. Eustathiades, Mr. Ignacio-Pinto, Mr. Reuter, Mr. Rosenne, Mr. Ruda, Mr. Tabibi, Mr. Tammes, Mr. Tsuruoka, Mr. Ustor, Sir Humphrey Waldock, Mr. Yasseen.

Succession of States and Governments: Succession in Respect of Matters other than Treaties

(A/CN.4/216/Rev.1)

[Item 2 (*b*) of the agenda]

(resumed from the 1003rd meeting)

1. The CHAIRMAN invited the Commission to resume consideration of the Special Rapporteur's second report (A/CN.4/216/Rev.1).

2. Mr. REUTER said that in his previous remarks [1] he had suggested that the form in which the question had been presented to the Commission required that it should first decide what were the specific cases it wished to study under the heading of succession of States and then consider what principles it should follow in their detailed examination. His personal opinion was that principles which could lead to constructive compromise solutions should be chosen, depending, of course, on the sphere which the Commission assigned to succession of States.

3. Many of the problems taken up, either by the Special Rapporteur in his report or by those members of the Commission who had already spoken, did in fact arise very often in cases of State succession, but not necessarily in that connexion only; they often arose quite apart from State succession. For example, members of the Commission had naturally mentioned the question of the consequences, in international law, of changes in the structure or economic policy of a State, whether it was a new State or not. Such changes, which raised the problems of respect for private property and the treatment of aliens, could occur without any succession, as had happened in France in 1944-1946. In the example given by Mr. Ustor, problems of succession had arisen when the Austro-Hungarian empire had been split up into several States; and then later, in 1946, fresh problems of war damage and change of régime had been superimposed. Again, problems of succession would arise for a decolonized State which recovered its full independence and opted for a relatively liberal economic régime, but it would also have problems of the same kind to settle if it subsequently decided to change its economic structure. Those examples showed that the Commission's task could be envisaged more or less broadly. The question was whether the problems raised by succession of States and governments and the similar problems which arose apart from succession should be studied together or separately.

4. He was not opposed to the idea that the Commission should examine, under State succession, the problems arising out of changes in the structure or economic policy of an independent State, whether it was a new State or not, which were outside the limits of succession as such. If the Commission so decided, it would inevitably have to widen the scope of its study considerably and introduce new principles. For example, it would have to study the important consequences for a whole series of contracts—concessions, investment agreements, and so on—of changes made by a State in its economic policy or structures. That was a case for application of the *rebus sic stantibus* clause, a legitimate case for the modification of certain contractual balances. In private law and in collective property relationships, amendments to contracts were common, and examples could also be found in public international law. In the modern world, the distinction between private collective property and public collective property was artificial. The contracts concluded every day between the socialist planned-economy countries and private enterprise contained revision clauses or provided for amendment procedure.

5. The modern world, therefore, was one of creative change, and it was in that direction that the Commission should orient its studies if it wished to deal with succession in the broadest sense. Such an attitude might perhaps be regarded as revolutionary, but he had no objection to that. The Commission had already decided that the product of its study should be draft articles for a convention, not just a model draft. If it decided to deal with succession of States in the manner he had indicated, the Commission would not have to prepare draft articles; it would have to think about proposing more flexible texts, directives, recommendations or simply commentaries on model solutions. It might also submit, in the form of a report, a critical analysis of a new kind of treaty relations to which Mr. Bedjaoui had referred in his study. On the other hand, if it took State succession in the strict sense of the term, it would have to leave aside problems which were linked to State succession in fact if not in law.

6. As to the research requested of it, the Secretariat should be given precise instructions regarding the most important points on which it was to concentrate.

7. Sir Humphrey WALDOCK said he admired the lucidity and elegance of the Special Rapporteur's report, but found it rather difficult to comment on, because the Special Rapporteur had made the subject acquired rights and the Commission had been expecting to receive a

[1] See 1003rd meeting, paras. 22 *et seq.*

rather different kind of report. His own reactions had already been voiced by several of his colleagues; he agreed with a great deal that had been said by Mr. Castrén and sympathized with the views expressed by Mr. Reuter.

8. On the whole, the report seemed to him to be more of a brief or an argument than an objective exposition of the subject on which the Commission could safely take a decision in full knowledge of the issues. In particular, it showed a certain lack of balance, since the case on one side had been put very strongly while the balancing arguments on the other side had not been stated with the same fullness. There were also a number of matters in the report involving legal appreciations on which he had considerable reservations, as he did not think they could be accepted as correct. Examples were the *German Settlers* case and the *Sabbatino* case.[2]

9. The Commission hardly had sufficient well-balanced material before it to give satisfactory answers to the Special Rapporteur's questionnaire.[3] Indeed, he was not entirely sure what the purpose of that questionnaire really was. The Special Rapporteur had stated that he was listing some of the problems on which he would be glad to learn the views of his colleagues, but if the questionnaire was to be used by the Commission as a basis for some form of preliminary decisions, he thought the time was quite premature for arriving at those decisions, because much more thought would have to be devoted to the subject before even a preliminary decision could be taken.

10. He had said he did not consider that the Special Rapporteur's report was a fully balanced exposition; he wished at the same time to make it clear that he himself had no fixed views on the possible outcome of any discussion of the issues raised in the report. He did feel that the issues had been placed in the wrong perspective by orienting them so largely to the notion of acquired rights. Historically, that notion might have dominated juristic writing at a certain period, but undue emphasis would be placed on a particular aspect of the problem if the Commission's attention was focussed mainly on the question of acquired rights.

11. With reference to Mr. Ustor's statement at a previous meeting, he thought that his comment on the concept of "vested interest"[4] was not correct as that term—a highly technical one—was understood in English common law. In English law, such interests became vested rights when all the necessary antecedent conditions had been fulfilled; a right so vested might afterwards still be liable to destruction by the happening of a subsequent event, but that would not preclude it from being considered a vested interest.

12. What was at issue was the rights of individuals and the State of which they were nationals to property which the former might have acquired through their efforts in particular foreign territories. That might also touch problems of human rights, and the whole question had to be considered in a general way with a view to determining what was the proper balance of legal interests at the present time. The Commission would therefore have to work out the general principles and then identify the several exceptions to those principles which might exist.

13. The Special Rapporteur seemed to have overlooked the fact that the subject of acquired rights had already been before the Commission in another context, namely, that of State responsibility; and he had not taken any account of a paper written by Mr. Jiménez de Aréchaga which dealt with issues discussed in the present report. The question of acquired rights had been discussed at length in 1963 in connexion with the topic of State responsibility. After considering the reports by Mr. García Amador, the former Special Rapporteur for the topic, the Commission had ultimately decided that it would prefer to deal with the general principles of State responsibility rather than with the particular aspect of acquired rights. At that time, Mr. Jiménez de Aréchaga had submitted a paper on the duty to compensate for the nationalization of foreign property[5] to a special Sub-Committee of the Commission; in that paper he had turned his back on the concept of acquired rights as having been based on general principles of law recognized at a time when the economic systems of the world had greater unity. He had taken the view that today the right to compensation still existed, but that the legal basis for that right had to be sought rather in the ideas of equity and unjust enrichment. He himself, who had been brought up in English traditions of international law, had sympathy with that approach, but thought that the Commission should not try to force the issue, since the situation today was much more complex.

14. The subject was a delicate one, on which it was undesirable to come to any premature conclusions. What was needed was to seek common ground on which it might be possible to go forward with the work of codification, whether such codification was to be expressed in terms of a convention or not. To find that necessary common ground, the Commission should have before it a more balanced exposition of all the issues; what the Special Rapporteur had produced was a frontal attack delivered from a particular point of view. He could only imagine that the Special Rapporteur had made such an attack because he had thought that some of his colleagues held more rigid positions than in fact they did.

15. As far as acquired rights were concerned, it was clear that in the period between the two wars the Permanent Court of International Justice had taken the view that there was a rule of customary law in favour of such rights, even if it had not defined how far they extended. That was also apparent from the other cases cited by Mr. Castrén. In its advisory opinion on the *German Settlers* case, the Court had expressly said that "no treaty provision is required for the preservation of the rights and obligations now in question",[6] so that

[2] See report (A/CN.4/216/Rev.1) paras. 16 and 55.

[3] See 1003rd meeting, para. 1.

[4] See 1002nd meeting, paras. 5 and 6.

[5] See *Yearbook of the International Law Commission, 1963*, vol. II, p. 237.

[6] *P.C.I.J., 1923*, Series B, No. 6, p. 38.

it was, for him, impossible to accept the Special Rapporteur's presentation of the Permanent Court's views in that case. On the other hand, much had happened since that time. What the Commission now had to do was to find the most acceptable attitude to adopt with respect to the position of aliens where their "vested" rights or property rights in foreign countries were involved. To his way of thinking, the first question to be answered by the Commission was whether it should take up the problem of acquired rights in the context of State responsibility, or in that of State succession, or possibly as a separate topic. Mr. Ustor had raised that issue and to him it seemed a fundamental one.

16. As Mr. Reuter had pointed out, the question of acquired rights did not fall exclusively within the topic of State succession, and the Commission's work on State succession might only be complicated if it became involved in such a delicate and prickly problem. So far in its history, the Commission had shown a certain reluctance to take up the question at all; it undoubtedly did have links with the topic of State responsibility, but was only one aspect of that topic.

17. The Commission should therefore decide whether it wished the Special Rapporteur to deal with the question of acquired rights as a major issue under State succession or to concentrate on some other branch of the topic, leaving acquired rights aside as one of the incidental questions involved.

18. Mr. Tammes had referred to the *North Sea Continental Shelf* cases and the statement concerning equality made by the International Court of Justice.[7] The question of equality was undoubtedly important in that context, but he thought that it would be more prudent not to give too broad an interpretation to the Court's language, which applied primarily to a particular problem of "geographical" equity arising in connexion with the continental shelf. On the German side the case had been argued as a question of geographical equity and equality. At the end of the case, as a counter-argument on behalf of Denmark, he himself had invoked more general considerations of equity. Denmark had never possessed any natural resources, while Germany had had vast resources of coal and steel which had enabled it to achieve a dominant position in Europe in the 19th century. He had argued, therefore, that if the principles of equity were applied, there was a case for compensation to Denmark for what that country had been denied by nature. But the Court had clearly limited its own references to equality and equity to the context of boundaries on the continental shelf. Accordingly, it was necessary to be careful in drawing any general conclusions of the kind suggested by Mr. Tammes from that particular case.

19. With regard to decolonization, while it might have considerable significance in connexion with the topic of State succession, that significance should not be exaggerated. In particular, the question of nationality following decolonization was a very delicate one, as his own country had found in dealing with its former territories. The Commission should therefore be careful in the language it used and remember that it was codifying international law for the future.

20. Another element which seemed to have been inadequately dealt with in the report was General Assembly resolution 1803 (XVII), concerning permanent sovereignty over natural resources. The Special Rapporteur's reference to that resolution had been made from a particular point of view. The resolution should be approached with caution, however, since it had been arrived at with difficulty and contained so many elements of compromise that it was not easy for international lawyers to give any precise interpretation of the conclusions to be drawn from it.

21. The Commission must strive to find common gound for a proposal which would be acceptable not just to a narrow majority or even to a two-thirds majority. There were issues which had been touched upon brilliantly by Mr. Reuter: it was not enough, for example, to think only in terms of individuals, since their property was a part of the economic strength of their country. Moreover, the question of foreign investments was extremely complex, since in many countries during the last twenty-five years such investments had been subject to greater or smaller controls. For those and other reasons it would be difficult and premature at the present juncture for the Commission to issue any clear-cut directives to the Special Rapporteur. The Commission's first task should be to decide on its answer to question 5 in the Special Rapporteur's questionnaire. Should the question of acquired rights be dealt with under State responsibility or under State succession? In his opinion, the latter approach would be hardly satisfactory unless the matter was studied very completely. Or should the question of acquired rights be left aside for the time being and discussed later as a separate and highly important subject?

22. With regard to question 8, the answer would depend on the other answers to the questionnaire. He personally would be glad to see the Secretariat undertake the various tasks and inquiries suggested, but he doubted whether it would wish to go into any analysis of jurisprudence, since the subject tended to be controversial.

23. Lastly, he frankly admitted that he was not at all clear as to the course the Commission ought to pursue and had an open mind on the subject. But he believed that the Special Rapporteur would make it easier for the Commission to find the direction in which it ought to go if he supplied it with a dispassionate statement of the various considerations, rather than a forceful presentation of one point of view.

23. Mr. CASTRÉN said that, since he had already defined his position, he would confine himself to a brief reply to the questionnaire submitted by the Special Rapporteur.

25. In paragraph 1, four questions were asked in connexion with the legal basis to be given to acquired rights. He agreed with the Special Rapporteur that there was no transfer of sovereignty; on the other hand, it seemed to him that there was an independent inter-

[7] See 1003rd meeting, para. 19.

national obligation. The third question therefore appeared to be unnecessary. The fourth question called, in principle, for an affirmative reply. Everything depended, however, on the nature of the right, and on the form and conditions in which rights had been granted. Each case had to be decided on its merits.

26. In paragraph 2, it was asked how the maintenance of acquired rights could be reconciled with certain principles of international law. The right of self-determination was no more absolute than other rights, and could therefore be reconciled with the principle of acquired rights. Similarly, in the application of the right of peoples freely to dispose of their natural wealth and resources, or of the right of peoples freely to adopt the economic system they desired, the interests of the other parties had to be considered. The State invoking those rights could not be allowed complete discretion.

27. On the other hand, it was very difficult to reconcile the denial of acquired rights with human rights and the duties of States towards aliens. Human rights protected certain acquired rights such as the right to private property, subject, of course, to certain restrictions. Moreover, successor States were not free to treat aliens as they wished.

28. The question asked in paragraph 4 could not be answered by a simple yes or no: the problem of acquired rights concerned other rights besides economic and financial rights. But in accordance with the Commission's decision of the previous year, the study should be confined to economic and financial rights, and deal mainly with private rights of that kind.

29. It was very difficult to reply to question 5. The two problems could not be completely separated, but at least a detailed discussion of responsibility could be avoided; in other words, the Commission could confine itself to deciding what rights were protected by international law and subject to what conditions and exceptions such protection was accorded, without going into the question of the sanctions for violations of those rights. In any case, as Mr. Reuter had said at a previous meeting, unlawful acts should not be considered.[8]

30. The basis of respect for acquired rights should be sought in general international law, in other words, in the subject-matter of human rights and the legal status of aliens, so there was no need to deal with the theory of acquired rights as such, if it was considered, not without reason, that the concept was imprecise.

31. In paragraph 7, the Special Rapporteur offered two alternatives. He himself was in favour of the second, which was in accordance with the Commission's decision of the previous year. The next report might deal with public property and public debts and the economic and financial rights of private persons, including administrative contracts and concession rights.

32. Although the Secretariat had already prepared several excellent documents on the succession of States, that material was partly out-of-date, and should therefore be supplemented as proposed by the Special Rapporteur. It would be sufficient, however, for the Secretariat to submit to the Commission the replies of governments on State practice, a report on the jurisprudence containing the most important decisions, and as full a bibliography as possible, particularly of the most recent publications. On the other hand, the Secretariat should not undertake an analysis of the practice and jurisprudence. It was for the members of the Commission, particularly the Special Rapporteur, to draw their own conclusions from the material supplied. It would also perhaps be going too far to ask the Secretariat to prepare a commentary on every work dealing with the succession of States. That was a very difficult task which would take time, so that it might delay the Commission's work.

33. Mr. TABIBI said he was grateful to the Special Rapporteur for his valuable contribution to the study of a very important subject. His second report had led to a lively discussion on a very complex question, which touched on problems of vital interest to all countries, developing and developed alike.

34. He would not at that stage give detailed answers to the Special Rapporteur's questionnaire. His purpose was to urge caution in dealing with the issues involved. Any attempt by the Commission to reach formal conclusions quickly could affect its relations with the General Assembly. The issues had political implications and might even be called explosive. They had been discussed both in the General Assembly and at conferences dealing with economic subjects and had invariably led to heated argument and to great difficulties in reaching any conclusions.

35. The Commission had decided at the previous session to request the Special Rapporteur to confine his work to the study of economic and financial rights, and the Special Rapporteur had now submitted a report on an extremely sensitive area of that aspect of the topic of succession of States in respect of matters other than treaties. No doubt the Special Rapporteur had prepared his report largely for the purpose of ascertaining what the Commission's reaction would be. In the past, topics had sometimes been kept on the Commission's agenda for a long time and reports on them had been submitted to the Commission periodically without any conclusions being arrived at; the topic of State responsibility during the period 1956-1961 was a case in point. In that case, the reaction of members of the Commission to some of the reports had found expression during informal consultations rather than in the Commission's meetings.

36. The present topic was one on which it was necessary to adopt a balanced approach taking into account not only the legal, but also the economic and political factors involved, and allowing for the interests of all parties. First and foremost, it was necessary to bear in mind the needs of the developing countries; for the very peace and security of the world depended on their development. But at the same time, it was necessary to make allowance for the interests of the developed countries.

37. The Commission should bear in mind that there was already another United Nations organ dealing with the same issues: the Commission on Permanent Sovereignty over Natural Resources, set up in 1958 by

[8] See 1003rd meeting, para. 29.

General Assembly resolution 1314 (XIII), containing "Recommendations concerning international respect for the right of peoples and nations to self-determination". According to that resolution the right to self-determination, as affirmed in the two draft Covenants on human rights subsequently adopted by the General Assembly,[9] included permanent sovereignty over natural wealth and resources. The General Assembly had experienced the greatest difficulty in agreeing on the composition of the Commission on Permanent Sovereignty over Natural Resources and on its terms of reference. It had finally reached a balanced compromise between the opposing views and interests, which made the Commission's terms of reference particularly significant. Operative paragraph 1 of resolution 1314 (XIII) specified that, in making the survey of "the status of the permanent sovereignty of peoples and nations over their natural wealth and resources, due regard shall be paid to the rights and duties of States under international law . . .". The Commission on Permanent Sovereignty over Natural Resources had in fact produced a draft, which the General Assembly had adopted in 1962 as section I of resolution 1803 (XVII) on "Permanent sovereignty over natural resources". It was significant that, in section II of that same resolution, which it had adopted unanimously, the General Assembly had welcomed "the decision of the International Law Commission to speed up its work on the codification of the topic of responsibility of States", thereby emphasizing the relationship between the issues now under discussion and another topic on the Commission's agenda.

38. Thus there was another United Nations body to deal with those issues. It was true that the Commission on Permanent Sovereignty over Natural Resources had not met again, but it had not been dissolved and could be reconvened. Hence, any attempt by the International Law Commission to deal with the same issues might expose it to criticism in the General Assembly.

39. It should also be noted that one of the reasons why the Commission on Permanent Sovereignty over Natural Resources had not been able to meet again was that the issues under consideration were charged with political implications and difficulties; neither the developing nor the developed countries were anxious to debate those issues.

40. The Declaration adopted by the General Assembly as section 1 of resolution 1803 (XVII) consisted of eight paragraphs, which had been agreed on only after a great deal of discussion. The text of those paragraphs reflected a delicate balance between the views of the two groups of States concerned.

41. As a citizen of a developing country, he fully supported the basic principle of permanent sovereignty over natural resources, but he also recognized the urgent need of developing countries for foreign investment and technical assistance from both socialist and capitalist sources. In the circumstances, it was incumbent upon jurists to avoid any action which might have a detrimental effect on the inflow of such investment and assistance. For example, unless adequate safeguards and acceptable procedures for the settlement of disputes were agreed upon, it would be difficult for developing countries to obtain the assistance they required. That was the present reality which must be faced, regardless of any question of past exploitation of developing countries by foreign interests.

42. He well remembered the problems that had arisen at the first United Nations Conference on Trade and Development in 1964. The Fifth Committee of that Conference had been engaged in the formulation of certain rules, and some of the proposals discussed had threatened the whole Conference with a breakdown. Ultimately, however, the bulk of the proposals had been adopted in the form of legal rules, some of which had been adopted unanimously, while others had received the support of many industrialized countries.

43. Hence, in view of the work already being done on the subject by the United Nations within the ambit of international law, the Commission would be well advised not to deal at present with the difficult question of acquired rights. It should instruct the Special Rapporteur to continue to study the question of economic and financial rights in State succession, and if it ultimately drew up any rules on the subject, it should take care that their formulation was well-balanced and that they took the interests of all States into account, so that they would be suitable for application not only at the present time, but also in the future.

44. The CHAIRMAN, speaking as a member of the Commission, said he would confine himself to a few preliminary remarks and reserve the right to speak again later. He congratulated the Special Rapporteur on his important and fruitful report, which he considered to be impartial. He fully shared the view that no acquired rights existed so far as the private property of foreigners in the territory of the successor State was concerned.

45. But he would like to approach the problem in another way and divide it into two parts: first, the alleged acquired rights of aliens, both natural and legal persons; second, the alleged acquired rights of States.

46. The question of the alleged acquired rights of private persons concerned all States in general, not only successor or predecessor States. Hence the Commission should not deal with it in the present context. The right, which belonged to every State, to nationalize or expropriate was merely the other side of that question. It was a general principle of contemporary international law that a State could nationalize not only the property of nationals and aliens by general measures, but also the property of aliens only, and a sovereign and independent State was not required to provide any explanation to any subject of international law whatsoever. Whether that question was discussed under the topic of succession of States or under that of the international responsibility of States, which was its other aspect, it was definitely settled by international law.

47. In the Soviet doctrine of international law, the concept of acquired rights was rejected, not only with respect to persons but also with respect to States.

[9] See General Assembly resolution 2200 (XXI).

However, the concept was retained for purposes of criticism and in expositive works. It was then used to cover what were sometimes called servitudes, a term which he did not favour. Servitudes sometimes derived from treaties, sometimes from customs or usage by which they had been established between two States. An example was military bases on foreign territory. The concept also covered the matters mentioned in paragraph 2 of the report. The question of those alleged acquired rights did not lend itself to a uniform approach. In the case of a new State born of decolonization, the answer was that the new State assumed no obligations of that kind. But it was doubtful whether the answer should be the same for other types of succession, for example, when several States merged, when a State was partitioned, or when part of the territory of one State was transferred to another. In those cases, public property and public debts, servitudes and so on, clearly had to be safeguarded.

48. In short, alleged acquired rights should be studied only with respect to States and differently according to the kind of situation. The Special Rapporteur might well give the Commission some further clarification, at least if that was the wish of members of the Commission and of the Special Rapporteur himself.

49. Mr. EUSTATHIADES said he wished to make a suggestion which might help the Commission to overcome the difficulties with which it was confronted. The concept of acquired rights could be set aside as a general principle and considered only in those fields where acquired rights were respected. The controversy was not so much over the existence or non-existence of acquired rights in general as over continuity or non-continuity of the obligations of the successor State according to the field considered. The Commission might ask the Special Rapporteur to ascertain in what matters there was continuity in the traditional and the new practice, and in what matters there was not. To place the problem in the context of the existence of acquired rights in general could only lead to misunderstandings and, although he himself did not believe in the existence of a general principle of respect for acquired rights, it would be very difficult for him to reply to the questionnaire if the questions remained in their present form.

50. Mr. BEDJAOUI (Special Rapporteur) said that the discussion seemed to have got into a blind alley. He himself would have liked all the members of the Commission to have given their views on that problem of capital importance, but some members wanted him to take it up again first, in order to simplify the issues and clarify the discussion. He would, however, agree to summarize, as well and as fully as he could, at the next meeting, the valuable contributions to the debate made by members of the Commission. That would also make things easier for those members who had been unable to hear them.

51. Mr. BARTOŠ said that there were two theories to be considered: did legal relationships continue in the situations contemplated or did they not? Jurists had been studying the question for a long time and it could not be said that either theory had prevailed. Some countries with a bourgeois social system had not always accepted the continuity theory, whereas some socialist countries had done so in certain cases. The answer depended more on the needs of the country concerned in each case than on its social system in general. Consequently, the Special Rapporteur could not be expected to provide a clear-cut reply. To ask for one would place him in an awkward position. All he could do was to take both theories into account in his study.

52. Mr. EUSTATHIADES said that his suggestion was not intended as support for any particular view; it was merely a method for work. Instead of basing his study on the concept of acquired rights considered as a general principle, the Special Rapporteur could try to determine what cases of continuity or non-continuity were to be found in the classical practice and in the new practice.

The meeting rose at 1.5 p.m.

1006th MEETING

Monday, 23 June 1969, at 10.10 a.m.

Chairman: Mr. Nikolai USHAKOV

Present: Mr. Ago, Mr. Albónico, Mr. Bartoš, Mr. Bedjaoui, Mr. Castañeda, Mr. Castrén, Mr. Eustathiades, Mr. Ignacio-Pinto, Mr. Kearney, Mr. Nagendra Singh, Mr. Ramangasoavina, Mr. Rosenne, Mr. Ruda, Mr. Tabibi, Mr. Tammes, Mr. Tsuruoka, Mr. Ustor, Sir Humphrey Waldock, Mr. Yasseen.

Succession of States and Governments: Succession in Respect of Matters other than Treaties

(A/CN.4/209; A/CN.4/216/Rev.1)

[Item 2 (*b*) of the agenda]
(continued)

1. Mr. BEDJAOUI (Special Rapporteur) said he wished to make a few comments, some general and some particular, on the various statements that had been heard, to summarize the opinions that had been expressed concerning the basis of acquired rights, and to say a few words about the dividing line between that subject and the subjects of State responsibility and decolonization.

2. The discussion had shown that there were several ways of looking at the matter. Some members of the Commission thought that the question of acquired rights should not be studied at all, either because, like Mr. Ushakov, they considered that acquired rights did not exist, or because they thought that the question belonged not to the succession of States, but to the international responsibility of States. Others, like Mr. Reuter, had expressed the opinion that the matter